



CONTRACT LAW DIVISION

Office of Assistant General Counsel for Finance and Litigation

Biweekly Report—Period Ending February 10, 2001



ETE v. DOC —CV 98-7237 (ED of NY)

We will be traveling to New York next week to take the deposition of the contractor's project engineer on the issue of a claim for repair work for fire damage on the NOAA Ship Ron Brown. The claimed work was allegedly performed while the same contractor (with the same project engineer) was simultaneously providing labor under a contract for the repair of the NOAA Ship Relentless. The Government has questioned the allocation of labor expense between the two contracts. Cross-Motions for Summary Judgement previously had been denied, as the Court felt there were sufficient factual disputes to go forward with discovery. (Ken Lechter)

The Austin Co. v. DOC--GSBCA No. 15238-ADR

We have recently completed several mediation sessions that have occurred over the last several months. We have resolved two major issues in this consolidated claim of approximately \$7 Million by the Austin Co., and its electrical and mechanical subcontractors, on a variety of issues dealing with the construction of the Advanced Chemical Sciences Laboratory at NIST. The first issue involved the electrical subcontractor's claims for additional design and engineering costs based upon constructive changes and defective specifications in the amount of \$1,075,000 that was resolved at \$519,000. The second issue involved \$466,000 of claims from Austin for additional design and engineering costs based upon constructive changes and defective specifications, that was resolved for \$177,300. Judge Allan Goodman of the GSBCA has acted as the neutral and has provided parties with early neutral evaluations after receiving submissions, hearing narrative presentations, and considering legal arguments.

Next month we will be taking up the electrical subcontractor's constructive change claim for additional fire alarms and fire safety equipment as well as the Government's liquidated damages claim and Austin's delay claim. (Ken Lechter)

NWS Prefab Problem

Our office is providing guidance and legal advice to CASC regarding concrete storage buildings constructed for NWS. Assembly for a total of 16 pre-fabricated buildings across the company have been completed and accepted. Since acceptance, NWS has reported that the

buildings have been leaking and experiencing other problems, rendering the buildings unusable. Neither the contractor nor the inspectors can determine the cause of the problems. (Amy Freeman Pierce and Terry Hart Lee)

Fluor Enterprises, Inc. v. US, Court of Federal Claims No. 00-207

Completed drafting of the Government's First Set of Interrogatories and Requests for Production of Documents. Met with Allison Lerner of OIG to discuss OIG documents requested by Fluor. (Fred Kopatch)

CLD "Time to Complete"—3.1 Days

Actions by Contract Law Division during Period from 1/28/2001 2/10/2001

Bureau	Received	Completed
ITA	1	1
NIST	5	5
NOAA	8	8
Totals	14	14

**Contract Law Division—Client Workload
Period Ending 02/10/2001**

